

PAUL W. DEFELICE
CHIEF PROBATION OFFICER

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK
PROBATION OFFICE

June 14, 2006

UNITED STATES OF AMERICA

-v-

ANDREW MARMUSCAK

DECLARATION
DOCKET #05-CR-484
SUMMONS REQUESTED

Honorable Frederick J. Scullin, Senior U.S. District Judge
NORTHERN DISTRICT OF NEW YORK

Ellen Phillips declares that she is a United States Probation Officer and that:

The above-referenced defendant appeared before the Honorable Frederick J. Scullin Jr., Senior U.S. District Judge, on November 17, 2005. He pled guilty at that time and was released with pretrial services supervision. Sentencing in this case is scheduled for August 17, 2006. This case was received for courtesy supervision in the Middle District of Pennsylvania on December 6, 2005. Marmuscak was released on various conditions, including that he shall refrain from any use or unlawful possession of a narcotic drug or other controlled substances as defined in 21 U.S.C. § 802 unless prescribed by a licensed medical practitioner.

Marmuscak reported to the U.S. Probation Office in Williamsport, Pennsylvania on December 12, 2005. A urine specimen was collected which tested positive for the presence of cocaine. The defendant signed a written statement, admitting that he used cocaine on December 10, 2005. It should be noted that the defendant denied any cocaine use prior to the sample being collected. The subject was directed to attend a drug and alcohol evaluation at the Bradford County, Pennsylvania Office of Human Services. The Court was notified of this cocaine use. Marmuscak appeared in Court to address the violation and was released on the same conditions as previously imposed. Marmuscak was referred for substance abuse treatment and his attendance in treatment was acceptable.

On June 6, 2006, U.S. Probation Officer Mark Kehler conducted an unannounced homevisit at Marmuscak's residence and administered a drug test. The test was presumptive positive for cocaine. Marmuscak admitted to using cocaine on either June 2, 2006 or June 3, 2006. The defendant was attending substance abuse treatment at Mental Health Associates located in Towanda, Pennsylvania. He called his counselor on June 6, 2006 and advised him that he would not be attending treatment anymore because he was going to jail. On June 9, 2006, the defendant failed to report for a random drug test at the U.S. Probation Office. His supervising U.S. Probation Officer spoke with him on June 9, 2006, during the evening. Marmuscak advised him that he smoked marijuana on June 8, 2006. Marmuscak was directed to report to the U.S. Probation Office on June 13, 2006. The defendant signed a voluntary admission of drug use form. He also submitted to a drug test which was negative for the presence of marijuana.

On June 14, 2006 the defendant contacted the U.S. Probation Office in the Northern District of New York. He wanted to let this officer know that he had used cocaine and marijuana but that he made

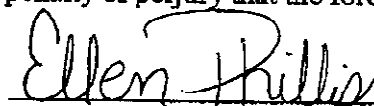
arrangements to re-engage in drug treatment. He reports he has an appointment scheduled for June 20, 2006. The defendant is hopeful that he will be allowed to remain at liberty until his sentencing date in August 2006.

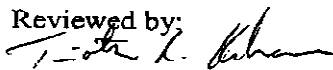
The U.S. Probation Office believes a summons should be issued for Marmuscak so the Court can address these alleged violations of pretrial release

<u>Condition Number</u>	<u>Nature of Noncompliance</u>
7.p	The defendant shall refrain from the use or unlawful possession of a narcotic drug and other controlled substances defined in 21 U.S.C. § 802, unless prescribed by a licensed medical practitioner.

On December 12, 2005, the defendant tested positive for the presence of cocaine. He admits to using cocaine on December 10, 2005. On June 6, 2006, the defendant tested positive for the presence of cocaine. He admits to using cocaine on either June 2, 2006 or June 3, 2006. Marmuscak also admits to smoking marijuana on June 8, 2006.

In accordance with 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.


Ellen Phillips
Senior United States Probation Officer

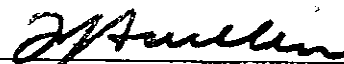
Reviewed by:

Timothy R. Keohane
Supervising U.S. Probation Officer

cc: Edward Broton, AUSA

THE COURT ORDERS

- ☐ No Action
☒ **The Issuance of a Summons**
☐ Other
☐ The Issuance of a Warrant. This petition and all documents attached hereto are **SEALED** until such time as the warrant generated by this petition is returned executed.

The District Court Clerk's Office is hereby **ORDERED NOT** to serve a copy of this petition or any of the attached documents upon anyone **EXCEPT** that a copy is to be served upon law enforcement personnel. Copies shall be served upon the unscaling of the petition.



SENIOR U.S. DISTRICT JUDGE
NORTHERN DISTRICT OF NEW YORK

6/16/06

DATE